

MEMORANDUM

October 16, 2013

TO: Government Operations & Fiscal Policy Committee

FROM: *GR* Leslie Rubin, Senior Legislative Analyst
NC Natalia Carrizosa, Legislative Analyst
Office of Legislative Oversight

SUBJECT: Office of Legislative Oversight Report 2014-8, *Appeals of Property Tax Assessments in Montgomery County*

The Council released Office of Legislative Oversight (OLO) Report 2014-8, *Appeals of Property Tax Assessments in Montgomery County*, on June 17, 2014. The report responds to the Council's request for a report that examines the process for appealing property tax assessments and results from appeals in Montgomery County. The Executive Summary for Report 2014-8 appears on ©1-3.

The purpose of this worksession is for the Government Operations & Fiscal Policy Committee to consider the findings and recommended discussion issues of Report 2014-8. At the worksession, OLO will present an overview of the report. The following representatives of the County Government and the State Department of Assessments and Taxation will be available at the worksession to provide comments and answer questions:

Department/Office	Representative
Department of Finance	Joseph Beach, Director Mike Coveyou, Treasury Chief James Babb, Tax Operations Manager
State Department of Assessments and Taxation	Marie Green, Supervisor of Assessments for Montgomery County

This packet is organized as follows:

- **Section A** summarizes OLO's findings; and
- **Section B** summarizes OLO's recommended discussion issues.

OLO's Executive Summary for the report, along with comments on the report from the Chief Administrative Officer and from the Director of the State Department of Assessments and Taxation, are included in this packet.

A. SUMMARY FINDINGS

Owners of real property (land and improvements to land) in Maryland pay property tax each year based on the value of the property. The Maryland State Department of Assessments and Taxation (SDAT) determines the value of all property in Maryland once every three years. The assessment is based on a property's "market value" or "the most probable price which a property will sell for under normal market conditions" and is subject to appeal by the property owner, another taxpayer, or a local government. OLO Report 2014-8 examines appeals of property assessments in Montgomery County from 2011 through 2013. OLO found the following:

- **Real property in Montgomery County.** As of July 1, 2013, Montgomery County had approximately 335,000 parcels of real property with an assessed value of \$161 billion.
- **Assessment of the value of real property in Maryland.** The State of Maryland assesses the value of real property. In recent years, the State has reduced resources for the Montgomery County's SDAT office and since 2011, all counties have been required to pay a portion of operating costs for their local SDAT offices (\$3.5 million in FY15 for Montgomery County, or 50% of operating costs).
- **State Department of Assessments and Taxation resources.** Feedback received about the Montgomery County SDAT office suggests that diminishing resources over the past few years have had a noticeable impact on the ability of SDAT to perform its work.
- **Appeals process.** The State of Maryland has a three-tiered administrative process for appealing a property assessment. Annual appeals in Montgomery County decreased from 9,607 in 2011 to 6,013 in 2013.
- **Appeals of property tax assessments filed by Montgomery County Government.** The Department of Finance appeals assessments that it believes are too low. The Department appealed the assessments of 197 properties valued at \$414 million between 2011 and 2013. The 76 appeals that currently are complete resulted in a net increase of \$192 million in assessed value.
- **All appeals of property tax assessments.** Appeals of assessments by taxpayers and others were filed for less than 4% of Montgomery County properties between 2011 and 2013. Proportionally, commercial property assessments were appealed at a higher rate than residential assessments.
- **Results of appeals of property tax assessments.** Thirty-five percent of the 13,945 property assessment appeals in Montgomery County between 2011 and 2013 resulted in changed assessments, leading to a cumulative \$2.1 billion decrease in total assessed property value.
- **Appeals by property type.** Residential and commercial property assessments in Montgomery County with the highest values were more likely to be appealed. Commercial assessments were appealed at a higher rate than residential assessments.
- **Appeals by property value.** Between 2011 and 2013, SDAT reduced assessments most often for the highest-valued properties. These same properties also had the largest average change in value – \$2.8 million for commercial assessments and \$226K for residential assessments.

B. OLO RECOMMENDED DISCUSSION ISSUES

This section summarizes OLO's recommended discussion issues.

Issue #1: The Department of Finance's practices related to appeals of commercial property assessments.

OLO recommends that the Council discuss with the Chief Administrative Officer and the Director of Finance the potential costs and benefits of expanding the County's role in the appeals process for high-valued commercial properties.

- Does the County review successful appeals of high-value commercial property that received decreases in assessments to examine whether staff felt those decreases were warranted?
- Should the County regularly evaluate appeals of high-valued properties when they occur to determine whether to intervene?

Issue #2: The review, assessment, and appeals of the highest-valued properties.

OLO recommends that the Council's GO Committee invite State and local SDAT representatives and Finance representatives to discuss the assessment and appeal of the highest-valued properties.

- Does SDAT's process for assessing the highest-valued properties differ from its process for assessing lower-valued properties?
- Should the Department of Finance develop a separate process for evaluating the assessment of and determining whether to appeal the assessment of the highest-valued properties?

Issue #3: Staffing and resource levels of the Montgomery County SDAT office and their impact on assessments and appeals.

OLO recommends that the GO Committee discuss with State and local SDAT representatives the State's plans to enhance the ability and effectiveness of the County's SDAT office going forward.

- As the economic recovery continues, does SDAT have plans to restore some of the staff resources that were reduced over the past few years?
- How can the County and the local SDAT office work together to ensure that new construction is assessed in a timely and effective manner so that it can become part of the County's tax rolls?
- What efforts has SDAT undertaken to ensure that its assessors have access to commonly-used real estate data to enhance the accuracy of assessments?

LIST OF ATTACHMENTS

Item	Begins at:
Executive Summary of OLO Report 2014-8 – <i>Appeals of Property Tax Assessments in Montgomery County</i> , June 17, 2014	©1
Memorandum from Timothy Firestine, Chief Administrative Officer, June 12, 2014	©4
Memorandum from Robert Young, Director of the State Department of Assessments and Taxation, June 10, 2014	©7

Appeals of Property Tax Assessments in Montgomery County

OLO Report Number 2014-8

June 17, 2014

Executive Summary

Owners of real property in Maryland pay property tax each year based on the value of the property. The Maryland State Department of Assessments and Taxation (SDAT) determines the value of all property in Maryland once every three years. The assessment is based on a property's "market value" or "the most probable price which a property will sell for under normal market conditions" and is subject to appeal by the property owner, another taxpayer, or a local government. This report examines appeals of property assessments in Montgomery County from 2011 through 2013.

Montgomery County Property Types

Residential property makes up 92% of properties of the approximately 335,000 parcels of property in Montgomery County and accounts for 78% of the total assessed value of all property. Commercial property makes up an additional 3% of County properties and 21% of the total assessed value.

SDAT in Montgomery County

The State Department of Assessments and Taxation maintains an office in each county. Montgomery County's SDAT office has approximately 50 positions, with 22 assessors in the field as of January 2014. Prior to the recent recession, SDAT's Montgomery County office had as many as 90 positions.

Number and Assessed Value of Montgomery County Property, as of July 1, 2013 (\$ billions)

Property Class	# of Properties	Total Assessed Value
Residential		
Residential	243,507	\$113.5
Condominiums	61,899	\$12.5
Commercial		
Commercial	4,237	\$17.5
Commercial Condominiums	3,253	\$3.1
Apartments	1,629	\$7.7
Industrial	1,441	\$5.9
Country Clubs	44	\$0.1
All Other		
Agricultural	2,025	\$0.6
Other	165	\$0.3
TOTAL	334,945	\$161.3 billion

Additionally, in FY11 the State began requiring all counties to fund a portion of the cost of operating local SDAT offices – 90% of costs in FY11 through FY13 and 50% of costs in FY14 and beyond. Montgomery County's FY15 Operating Budget includes \$3.5 million for SDAT reimbursement.

A December 2013 report from the State Department of Legislative Services' Office of Legislative Audits highlights the impact of diminishing resources for local SDAT offices – finding that SDAT did not perform physical inspections of all properties, as required by State law. SDAT agreed while noting that it does not have the resources to employ enough assessors to comply with the physical inspection requirement. Feedback from County Government and private sector representatives corroborate the perception that diminished resources and reduced staff have impacted the Montgomery County SDAT office.

Tax Assessment Appeals for Properties in Montgomery County – 2011-2013

In the year that a property is assessed, any taxpayer (not just a property owner), County, municipal corporation, or the Attorney General can appeal the value of an assessment by filing a written appeal within 45 days of the date of the Notice of Assessment. In the next two years when a property is not assessed, only the property owner can appeal the assessment.

There are three administrative levels for appeal of a real property assessment:

- The County Supervisor of Assessments where the property is located,
- The Property Tax Assessment Appeals Board (PTAAB) located in each county, and
- Maryland Tax Court (a quasi-judicial administrative unit of State government).

13,495 appeals were filed with the Montgomery County Supervisor of Assessments (the first level of appeal) from 2011 to 2013 – 4,116 commercial appeals and 9,725 residential appeals. These appeals were for 12,000 individual property accounts, representing around 4% of all properties in the County. The appeals represented 21% of the total assessed value of County properties – \$33.3 billion.

Commercial property assessments were substantially more likely to be appealed than residential assessments – with appeals for 39 out of every 100 commercial properties. This equated to an appeal of \$79 for every \$100 in commercial property value. By contrast, only three out of every 100 residential property assessments were appealed – or \$5 for every \$100 in residential property value.

**Number of Appeals per 100 Properties/
Comparison of Appealed to Total Value, 2011-2013**

Property Class	Ratio of Appeals per 100 Properties	Ratio of Appealed Value to Total Value
Residential	3/100	\$5/\$100
Commercial	39/100	\$79/\$100
All Other	4/100	\$24/\$100
TOTAL	4/100	\$21/\$100

Tax Assessment Appeals Results, 2011-2013

**SDAT Assessment Changes for Montgomery County
Tax Assessment Appeals, 2011-2013**

Property Class	% of Assessments Changed		Total Net Decrease in Assessed Value (\$ billions)
	Decreased	Increased	
Residential	37%	0.4%	\$0.4
Commercial	28%	2.2%	\$1.6
Other	35%	–	<\$1
TOTAL	34%	0.9%	\$2.1 billion

The overwhelming majority of SDAT changes to property assessments were assessment decreases, resulting in a cumulative \$2.1 billion decrease in total assessed property value. Commercial properties accounted for over 80% of the value of all appeals filed and 78% of the change in assessment value.

OLO divided commercial and residential properties into four equal groups to compare appeals across property values. The 1st quartile contains the lowest-valued properties and the 4th quartile contains the highest.

42% of commercial appeals and 36% of residential appeals were for the highest-valued properties. However, appeals of higher-valued commercial properties were more common (65 appeals for every 100 properties) than of higher-valued residential properties (5 appeals for every 100 properties).

Number of Appeals per 100 Properties and Average Dollar Change, by Quartile, 2011-2013

Quartile	Range of Assessed Values	Ratio of Appeals per 100 Properties	Average \$ Change in Individual Assessments
Commercial – 2,698 properties per quartile			
1 st	Up to \$185,650	23/100	\$19,768
2 nd	\$185,651 to \$441,800	35/100	\$53,640
3 rd	\$441,801 to \$1,636,500	30/100	\$381,139
4 th	Over \$1,636,500	65/100	\$2,856,357
Total Commercial		38/100	\$1,387,600
Residential – 76,655 properties per quartile			
1 st	Up to \$230,000	3/100	\$33,802
2 nd	\$230,001 to \$338,900	2/100	\$43,630
3 rd	\$338,901 to \$524,900	3/100	\$44,589
4 th	Over \$524,900	5/100	\$226,420
Total Residential		3/100	\$120,911

Tax Assessment Appeals Filed by Montgomery County Government

The Director of Finance is required to "protect the public interest" by appealing inaccurate property assessments, intervening in appeals, and taking other appropriate actions to review and challenge inaccurate assessments. Finance staff review new property assessments annually to identify ones for appeal. The Department only appeals an assessment (1) when a property has sold within the previous assessment cycle and (2) when the property sales price is \$300,000 or more than the assessed value.

Between 2011 and 2013, the Department of Finance filed 197 appeals – 111 of commercial property assessments, 81 appeals of residential property assessments, and five appeals of agricultural property assessments. Seventy-six appeals are complete and nearly 60% of completed appeals resulted in assessment increases. Appeals of commercial assessments led to a net assessment increase of \$173.3 million, and appeals of residential assessments led to a net assessment increase of \$18.7 million.

Results of Completed Appeals Filed by the Department of Finance, 2011-2013

Property Class	Appealed Value (\$ millions)	% of Assessments Increased	Net Assessment Increase (\$ millions)
Commercial	\$378.2	53%	\$173.3
Residential	\$36.0	76%	\$18.7
TOTAL	\$414.2	59%	\$192.0

Office of Legislative Oversight's Recommended Discussion Issues

Issue #1: The Department of Finance's practices related to appeals of commercial property assessments.

OLO recommends that the Council discuss with the Chief Administrative Officer and the Director of Finance the potential costs and benefits of expanding the County's role in the appeals process for high-valued commercial properties.

- Does the County review successful appeals of high-value commercial property that received decreases in assessments to examine whether staff felt those decreases were warranted?
- Should the County regularly evaluate appeals of high-valued properties when they occur to determine whether to intervene?

Issue #2: The review, assessment, and appeals of the highest-valued properties.

OLO recommends that the Council's GO Committee invite State and local SDAT representatives and Finance representatives to discuss the assessment and appeal of the highest-valued properties.

- Does SDAT's process for assessing the highest-valued properties differ from its process for assessing lower-valued properties?
- Should the Department of Finance develop a separate process for evaluating the assessment of and determining whether to appeal the assessment of the highest-valued properties?

Issue #3: Staffing and resource levels of the Montgomery County SDAT office and their impact on assessments and appeals.

OLO recommends that the GO Committee discuss with State and local SDAT representatives the State's plans to enhance the ability and effectiveness of the County's SDAT office going forward.

- As the economic recovery continues, does SDAT have plans to restore some of the staff resources that were reduced over the past few years?
- How can the County and the local SDAT office work together to ensure that new construction is assessed in a timely and effective manner so that it can become part of the County's tax rolls?
- What efforts has SDAT undertaken to ensure that its assessors have access to commonly-used real estate data to enhance the accuracy of assessments?

MEMORANDUM

June 12, 2014

TO: Chris Cihlar, Director, Office of Legislative Oversight

FROM: Timothy L. Firestine, Chief Administrative Officer *Timothy L. Firestine*

SUBJECT: OLO Draft Report No. 2014-8, Appeals of Property Tax Assessments in Montgomery County

I am in receipt of your draft report No. 2014-8, dated May 29, 2014, detailing the review conducted by your office of the State of Maryland's Property Tax Appeals process; the County Government's responsibilities in this process; and the data on the tax assessment appeals in the County including the Finance Department's appeals between 2011 and 2013. Your assessment of this issue has been thorough, well documented, and in my view, indicates that the County has diligently and responsibly filed appeals in a manner consistent with the requirements of Chapter 20 of the County Code.

In response to the report's Findings and Recommendations, I offer the following comments:

OLO Finding #5: The Department of Finance appealed the assessment of 197 properties valued at \$414 million between 2011 and 2013. The appeals resulted in a net increase of \$192 million (46%) in assessed value.

CAO Response: We agree with this estimate but note that the assignment of "less than one FTE" that is noted in the finding as well as on page 34 of the draft report includes two staff working with a contractor and reflects the time constrained nature of the appeals process and not the relative priority given to this responsibility. As the report notes, the County has only 45 days to file the appeals after receiving the Notice of Assessment from the State Department of Assessments and Taxation (SDAT). In addition, the net increase of \$192 million in assessed value equates to annual additional revenue of \$1.9 million in additional County revenue based on the FY15 weighted real property tax rate of \$0.996.

OLO Issue #1: OLO recommends that the Council discuss with the Chief Administrative Officer and the Director of Finance the potential costs and benefits of expanding the County's role in the appeals process. Specifically:

- Does the County review successful appeals of high-value commercial property that received decreases in assessments to examine whether staff felt those decreases were warranted?
- Should the County regularly evaluate appeals of high value properties when they occur to determine whether to intervene?

CAO Response: Currently the Department of Finance is not notified of decreases in assessments that result from an appeal. If we are able to establish a process with SDAT to receive timely notification of decreases in assessments based on an appeal, we could assess whether we can change current business processes and have sufficient resources to conduct more frequent analysis of assessments as well as appear before the Property Tax Assessment Appeals Board (PTAAB) for these additional appeals. Currently, changes in assessment come as part of the monthly revisions provided by SDAT which includes many other changes besides decreased assessments as a result of an appeal. Similarly, the Department of Finance is not notified about appeals filed by property owners. If we can establish a process with SDAT and PTAAB so that we receive timely notification of the appeals, we will evaluate the appeals and determine whether it is appropriate according to our criteria and available resources to intervene.

OLO Issue #2: OLO recommends that the Council's Government Operations and Fiscal Policy (GO) Committee invite State and local SDAT representatives and Finance representatives to discuss the assessment and appeal of the highest-valued properties. In particular:

- Should the Department of Finance develop a separate process for evaluating the assessment of and determining whether to appeal the assessment of the highest-valued properties?

CAO Response: If the recommendation is that the Department replicates the SDAT function for the highest-valued properties, then we do not concur that this type of duplication of effort take place. Not only does Finance not have the expertise or the personnel to duplicate this state function, we believe the current appeals process (enhanced as suggested above for timely notification of appeals by property owners) is a more cost effective approach to address concerns about assessment of these types of properties.

OLO Issue #3: OLO recommends that the GO Committee discuss with State and local SDAT representatives the State's plans to enhance the ability and effectiveness of the County's SDAT office going forward. Specific discussion questions include:

- How can the County and the local SDAT office work together to ensure that new construction is assessed in a timely and effective manner so that it can become part of the County's tax rolls?

CAO Response: DPS currently has a process for notifying SDAT by email on a daily basis of permits issued for residential and commercial building for the previous day (see attached report). In addition DPS provides and manages access for SDAT staff to the Hansen system (read-only) the DPS Document Management Center (read-only) as well as providing on-demand operational support for this access as needed.

Chris Cihlar, Director, Office of Legislative Oversight
June 12, 2014
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In addition, SB 172 (<http://mgaleg.maryland.gov/2014RS/bills/sb/sb0172E.pdf>) Section 14 established an SDAT Working Group. One of the objectives of this working group is to examine: "The Department's (SDAT) ability to timely and adequately maintain changes in property status that may occur throughout the year and incorporate new properties in the system of accounts." The Director of Finance has been appointed to this working group. This OLO recommendation will be raised in the working group as well as potential improvements to the current process for addressing new construction.

If you have questions or need additional information please contact Fariba Kassiri, Assistant Chief Administrative Officer. Again, I thank the Office of Legislative Oversight for its excellent work on this report.

cc: Joseph F. Beach, Director, Department of Finance
Diane Jones, Director, Department of Permitting Services
Fariba Kassiri, Assistant Chief Administrative Officer

Attachment

Appeals of Property Tax Assessments in Montgomery County

IX. Comments of the State Department of Assessments and Taxation

The State Department of Assessments and Taxation (SDAT) has carefully reviewed the Draft of the Report from the Office of Legislative Oversight on Appeals of Property Tax Assessments in Montgomery County. We appreciate being given the opportunity and ample time to examine the Report before its release. SDAT concurs and agrees with the analysis and findings contained in the Report.

SDAT believes it appropriate to emphasize the increase in the number of out of cycle “petitions for review” by property owners, especially for commercial properties, that has occurred in the last few years in Montgomery County, despite the reductions in existing values by the Department. Attorneys routinely solicit the owners of the larger value properties to appeal their assessments. Some tax representatives file an appeal or a petition for review on the same properties every year. One of the private business entities in Montgomery County, the Lee Development Group, whose comments have been noted in this report, has appealed the assessments on more of its properties for multiple assessment cycles because it concluded that the SDAT values were too high. It should be noted that some of the assessments which Montgomery County has considered appealing as too low were the product of a successful assessment appeal by a property owner in an earlier assessment cycle.

The number of commercial appeals by property owners in Montgomery County where property values are greater than \$5 million has increased to 408 accounts in 2014. It also should be noted that the higher value of a property then the larger the reduction will be based on even a slight reduction in the “capitalization rate” used to value income producing commercial properties.

The Department also wishes to offer some additional information about four of the Findings of the Report. One of the Findings is that Montgomery County does not present evidence on its appeals that go to Maryland tax Court because of the expense. When the County has appealed an assessment that goes to the Tax Court, the non-appearance puts the Department at a disadvantage without the other party affirmatively putting forth its own evidence for a higher assessed value.

A second Finding where SDAT wants to provide further information concerns the data that can be made available to the County. The Department can provide Montgomery County information on all appeals of assessments of \$2 million and above, which is the same information the agency presently provides the City of Baltimore.

Another Finding deals with what information services and other data the Department receives to assist with its valuation of properties. The Montgomery County Assessment Office does have access to the CoStar and the Real Capital Analytics services but we do not have access to the Montgomery County Government “density” or “development plans” until after the fact. The providing of this County generated data to the Assessment Office would be extremely useful in determining market value on certain properties.

A fourth Finding where the Department wishes to comment concerns the assignment of new assessor and clerical employees added to the local Montgomery County Assessment Office. In fiscal years 2013 and 2014, the Montgomery County Assessment Office was one of two subdivisions receiving the largest number of new clerical and assessor employees in the State from the Department's budget allocation. The new assessors in Montgomery County were all assigned to new property "pickup" teams to assess sooner newly constructed improvements and new improvement additions greater than \$100,000 in value.

In sum, the Department trusts this additional information is of value to the Montgomery County Council and the Office of Legislative Oversight. We hope that the Report on Appeals of Property Tax Assessments in Montgomery County will foster and encourage an ongoing and greater exchange of information between the Department and the County agencies that have certain jointly shared responsibilities in a fair and uniform tax assessment and tax collection system.

Respectfully Submitted,

Robert E. Young
Director